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Art Unit 2623
Serial No. 10/035,763Reply to Office Action of: September 8, 2006
Attorney Docket No.: K35A0882

REMARKS

REJECTION UNDER 35 USC § 103

The examiner rejected claims 1, 2, 5 and 7-10 under 35 USC §103(a) as unpatentable over Schlarb (US 2004/0078823) in view of Haddad (US 6,072,982).

Regarding claim 1, neither Schlarb nor Haddad discloses or suggests a program receiver determining a potential transmission time of a pay per view program to be received by the program receiver based on a plurality of transmission times in a schedule of pay per view programs. In contrast, Schlarb teaches an end user determining the transmission time of a program by selecting the program from a program guide (see paragraphs [0006]-[0007] and FIG. 1), and Haddad teaches a program provider or "Distribution Center 100" determining the transmission time of a program (see FIG. 1 and col. 7, line 25 to col. 8, line 38).

In response to this argument, the examiner asserts that Haddad discloses (col. 14, lines 9-13) Subscriber Terminal Software for determining a potential transmission time of a pay per view program to be received by the program receiver based on a plurality of transmission times in a schedule of pay per view programs. However, Haddad merely discloses that the Subscriber Terminal specify a "variable time allowance interval" to the program provider which specifies a time interval in which the program must be provided. The program provider evaluates the variable time allowance interval to determine whether a pending order can be accepted or rejected (col. 9, lines 1-2). In particular, the program provider "determines the latest time that delivery can be completed for the requested variable time allowance interval" (col. 9, lines 56-57) and "inserts the program segment into the schedule at the latest possible time" (col. 10, lines 5-7). Further, "when trying to insert the program segment into the schedule, [the program provider] checks for conflict with other program segments for the

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same customer at the same time, and if there is a conflict, inserts at the latest possible time when there is no conflict" (col. 10, lines 8-13).

Therefore, Haddad teaches that the program provider selects the transmission time for a program segment, including to select a transmission time that does not conflict with the transmission times for other program segments transmitted to the same customer. Nowhere does Haddad disclose or suggest that the program receiver determine a potential transmission time of a pay per view program to be received by the program receiver based on a plurality of transmission times in a schedule of pay per view programs. For at least these reasons, the rejection should be withdrawn.

Claim 2 has been amended to recite "determining at the program receiver if an availability status of a content delivery path is available at a predetermined time prior to the potential transmission time." As described above, and as conceded by the examiner on page 4 of the office action, Haddad teaches that "when trying to insert the program segment into the schedule, [the program provider] checks for conflict with other program segments for the same customer at the same time, and if there is a conflict, inserts at the latest possible time when there is no conflict" (col. 10, lines 8-13). Thus, Haddad teaches that the program provider determines if an availability status of a content delivery path is available at a predetermined time prior to the potential transmission time. For at least these reasons, the rejection should be withdrawn.

The examiner rejected claims 3 and 4 under 35 USC §103(a) as unpatentable over Schlarb in view of Haddad and further in view of Ellis (US 2005/0235323). This rejection should be withdrawn for at least the reasons set forth above.

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The examiner rejected claim 6 under 35 USC §103(a) as unpatentable over Schlarb in view of Haddad and further in view of Yoshinobu (US 5,699,104). This rejection should be withdrawn for at least the reasons set forth above.

The examiner rejected claims 11, 14-16, and 18-21 under 35 USC §103(a) as unpatentable over Russo (US 6,025,868) in view of Shah-Nazaroff (US 6,157,377) and further in view of Haddad.

Regarding claim 11, the examiner concedes that neither Russo nor Shah-Nazaroff discloses a personal video recorder selecting a potential transmission time from the plurality of transmission times. The examiner asserts that Haddad discloses these limitations at col. 14, lines 8-13. However, as described above, Haddad teaches that the program provider selects a potential transmission time from a plurality of transmission times. For at least these reasons, the rejection should be withdrawn.

Regarding claim 18, the examiner concedes that neither Russo nor Shah-Nazaroff discloses a personal video recorder comprising a controller configured to receive the schedule for a pay per view program via the external interface, and to select one of a plurality of transmission times. The examiner asserts that Haddad discloses these limitations at col. 14, lines 8-13. However, as described above, Haddad teaches that the program provider selects a potential transmission time.

In addition, as described above, Haddad teaches that the program provider selects the transmission time corresponding to when the content delivery path is available (col. 10, lines 8-13). In contrast, the claim recites the personal video recorder controller configured to select one of the plurality of transmission times corresponding to

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when the at least one content delivery path is available. For at least these reasons, the rejection should be withdrawn.

The examiner rejected claim 12 under 35 USC §103(a) as unpatentable over Russo (US 6,025,868) in view of Haddad (US 6,072,982) and Schultheiss (US 6,545,722). This rejection should be withdrawn for at least the reasons set forth above.

The examiner rejected claim 13 under 35 USC §103(a) as unpatentable over Russo (US 6,025,868) in view of Yoshinobu (US 5,699,104). This rejection should be withdrawn for at least the reasons set forth above.

The rejections of the remaining claims should be withdrawn for at least the reasons set forth above.

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CONCLUSION

In view of the foregoing amendments and remarks, the applicant respectfully submits that the pending claims are now in condition for allowance and requests reconsideration of the rejections. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the examiner is invited to contact the undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge payment of any required fees associated with this Communication or credit any overpayment to Deposit Account No. 23-1209.

Respectfully submitted,

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